

AMENDED IN SENATE APRIL 8, 2013

**SENATE BILL**

**No. 170**

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**Introduced by Senator Wolk**

February 4, 2013

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An act to amend Sections 110480 and 113789 of the Health and Safety Code, relating to food safety.

LEGISLATIVE COUNSEL'S DIGEST

SB 170, as amended, Wolk. Bale Grist Mill State Historic Park.

Existing law prohibits, with some exceptions, the manufacture, packing, or holding of processed food without a valid registration from the State Department of Public Health.

This bill would exempt from the registration requirements the milling, packaging, and selling of grain produced and sold at a water-driven grist mill on the National Register of Historic Places, provided best management practices *suitable for a historic water-driven grist mill* are followed for the processing and handling of the product, the flour is identified as being produced in a historic mill using traditional methods, and the product meets federal food adulteration purity standards.

Existing law, the California Retail Food Code, provides for the regulation of health and sanitation standards for retail food facilities, as defined, by the department and is primarily enforced by local health agencies. A violation of any provision of the code is a misdemeanor.

This bill would exclude from the definition of a retail food facility a water-driven grist mill that is on the National Register of Historic Places and that has onsite sales of grain that is milled at the facility.

Vote: majority. Appropriation: no. Fiscal committee: no.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

SECTION 1. Section 110480 of the Health and Safety Code is amended to read:

110480. The registration provisions of this article shall not apply to any person whose manufacturing, packing, or holding of processed food is limited solely to temporarily holding processed foods for up to seven days for further transport if the foods are not potentially hazardous foods, as defined in Section 110005, or to any person whose manufacturing, packing, or holding of processed food is limited solely to activities authorized by any of the following:

(a) A valid bottled water or water vending machine license issued pursuant to Article 12 (commencing with Section 111070).

(b) A valid pet food license issued pursuant to Chapter 10 (commencing with Section 113025) of Part 6.

(c) A valid permit issued pursuant to Chapter 4 (commencing with Section 113700) of Part 7 to a food facility including a food facility that manufactures, packs, or holds processed food for sale at wholesale, provided the food facility that manufactures, packs, or holds processed food for sale at wholesale does not meet any of the following conditions:

(1) Has gross annual wholesale sales of processed foods of more than 25 percent of total food sales.

(2) Sells processed foods outside the jurisdiction of the local health department.

(3) Sells processed foods that require labeling pursuant to this part.

(4) Processes or handles fresh seafood, frozen seafood held in bulk for further processing, or fresh or frozen raw shellfish.

(5) Salvages processed foods for sale other than at the retail food facility.

(d) A valid cold storage license issued pursuant to Chapter 6 (commencing with Section 112350) of Part 6.

(e) A valid cannery license issued pursuant to Chapter 8 (commencing with Section 112650) of Part 6.

(f) A valid shellfish certificate issued pursuant to Chapter 5 (commencing with Section 112150) of Part 6.

(g) A valid frozen food locker plant license issued pursuant to Chapter 7 (commencing with Section 112500) of Part 6.

1 (h) A valid winegrower's license or wine blender's license  
2 pursuant to Division 9 (commencing with Section 23000) of the  
3 Business and Professions Code.

4 (i) A valid milk products plant, margarine, imitation ice cream,  
5 imitation ice milk, or a products resembling milk products plant  
6 license, issued pursuant to Division 15 (commencing with Section  
7 32501) of the Food and Agricultural Code.

8 (j) A valid permit issued by a local health department to operate  
9 a processing establishment, as defined in Section 111955, that only  
10 holds or warehouses processed food, pursuant to Article 1  
11 (commencing with Section 111950) of Chapter 4 of Part 6,  
12 provided that all of the following conditions are met:

13 (1) The warehouse does not manufacture or pack processed  
14 food.

15 (2) The warehouse does not hold fresh seafood, frozen seafood  
16 held in bulk for further processing, or fresh or frozen raw shellfish.

17 (3) The warehouse is not operated as an integral part of a food  
18 processing facility required to be registered pursuant to Section  
19 110460.

20 (4) The warehouse facilities are located entirely within the area  
21 under the jurisdiction of the local health department.

22 (5) The warehouse does not salvage food as the primary  
23 business.

24 (k) This section shall not be construed to limit the authority of  
25 Los Angeles, San Bernardino, and Orange Counties, or of the City  
26 of Vernon, to conduct any inspections otherwise authorized by  
27 Chapter 4 (commencing with Section 111950) of Part 6.

28 (l) The milling, packaging, and selling of grain produced and  
29 sold at a water-driven grist mill on the National Register of Historic  
30 Places, provided best management practices *suitable for a historic*  
31 *water-driven grist mill* are followed for the processing and handling  
32 of the product, the flour is identified as being produced in a historic  
33 mill using traditional methods, and the product meets federal food  
34 adulteration purity standards.

35 SEC. 2. Section 113789 of the Health and Safety Code is  
36 amended to read:

37 113789. (a) "Food facility" means an operation that stores,  
38 prepares, packages, serves, vends, or otherwise provides food for  
39 human consumption at the retail level, including, but not limited  
40 to, the following:

1 (1) An operation where food is consumed on or off the premises,  
2 regardless of whether there is a charge for the food.

3 (2) Any place used in conjunction with the operations described  
4 in this subdivision, including, but not limited to, storage facilities  
5 for food-related utensils, equipment, and materials.

6 (b) “Food facility” includes permanent and nonpermanent food  
7 facilities, including, but not limited to, the following:

8 (1) Public and private school cafeterias.

9 (2) Restricted food service facilities.

10 (3) Licensed health care facilities, except as provided in  
11 paragraph (13) of subdivision (c).

12 (4) Commissaries.

13 (5) Mobile food facilities.

14 (6) Mobile support units.

15 (7) Temporary food facilities.

16 (8) Vending machines.

17 (9) Certified farmers’ markets, for purposes of permitting and  
18 enforcement pursuant to Section 114370.

19 (10) Farm stands, for purposes of permitting and enforcement  
20 pursuant to Section 114375.

21 (c) “Food facility” does not include any of the following:

22 (1) A cooperative arrangement wherein no permanent facilities  
23 are used for storing or handling food.

24 (2) A private home, including a cottage food operation that is  
25 registered or has a permit pursuant to Section 114365.

26 (3) A church, private club, or other nonprofit association that  
27 gives or sells food to its members and guests, and not to the general  
28 public, at an event that occurs not more than three days in any  
29 90-day period.

30 (4) A for-profit entity that gives or sells food at an event that  
31 occurs not more than three days in a 90-day period for the benefit  
32 of a nonprofit association, if the for-profit entity receives no  
33 monetary benefit, other than that resulting from recognition from  
34 participating in an event.

35 (5) Premises set aside for wine tasting, as that term is used in  
36 Section 23356.1 of the Business and Professions Code and in the  
37 regulations adopted pursuant to that section, that comply with  
38 Section 118375, regardless of whether there is a charge for the  
39 wine tasting, if no other beverage, except for bottles of wine and  
40 prepackaged nonpotentially hazardous beverages, is offered for

1 sale for onsite consumption and no food, except for crackers, is  
2 served.

3 (6) Premises operated by a producer, selling or offering for sale  
4 only whole produce grown by the producer, or shell eggs, or both,  
5 provided the sales are conducted on premises controlled by the  
6 producer.

7 (7) A commercial food processing plant as defined in Section  
8 111955.

9 (8) A child day care facility, as defined in Section 1596.750.

10 (9) A community care facility, as defined in Section 1502.

11 (10) A residential care facility for the elderly, as defined in  
12 Section 1569.2.

13 (11) A residential care facility for the chronically ill, which has  
14 the same meaning as a residential care facility, as defined in Section  
15 1568.01.

16 (12) Premises set aside by a beer manufacturer, as defined in  
17 Section 25000.2 of the Business and Professions Code, that comply  
18 with Section 118375, for the purposes of beer tasting, regardless  
19 of whether there is a charge for the beer tasting, if no other  
20 beverage, except for beer and prepackaged nonpotentially  
21 hazardous beverages, is offered for sale for onsite consumption,  
22 and no food, except for crackers or pretzels, is served.

23 (13) (A) An intermediate care facility for the developmentally  
24 disabled, as defined in subdivisions (e), (h), and (m) of Section  
25 1250, with a capacity of six beds or fewer.

26 (B) A facility described in subparagraph (A) shall report any  
27 foodborne illness or outbreak to the local health department and  
28 to the State Department of Public Health within 24 hours of the  
29 illness or outbreak.

30 (14) A water-driven grist mill that is on the National Register  
31 of Historic Places and that has onsite sales of grain that is milled  
32 at the facility.